



# TENNESSEE REAL ESTATE News-Journal

*An Official Publication of the Tennessee Real Estate Commission*

VOLUME: 8

WINTER 1999

NUMBER: 4

## Rule Changes Effective Now

Reid Brogden, TREC General Counsel

The Tennessee Real Estate Commission has completed rulemaking changes which became effective December 15, 1998. A summary of significant changes appears below.

1. The rule relative to testing was amended to reflect that the testing fee will be paid directly to the testing vendor.

2. The rule relative to reinstatement of licenses which expired for failure to pay renewal fees was repealed. Under current policy you may reinstate your license up to four (4) years after expiration. The penalty for reinstatement is twenty-five dollars (\$25.00) per month for every month the license had expired. (Note: reinstatement is within the discretion of the Commission and persons with past disciplinary problems may not be eligible for the reinstatement of an expired license.)

3. The rule on office signs was amended to remove the requirement that a sign be a minimum of three (3) inches high.

4. The rule that required that a licensee always provide the consumer with a copy of the closing statement was repealed. Now the broker must only provide a copy of the closing statement

when the broker acts as a closing agent.

5. The rule relative to personal interest was amended to require that a licensee disclose his personal interest when buying or selling any real estate. Specifically, if a licensee becomes interested in buying any real property during the course of representing others, he must disclose that fact to all parties. (In other words, do not compete with buyers you represent.) Also, if a licensee has an interest in real property the licensee must disclose that interest to prospective purchasers.

### In this issue:

Compensation of Licensed Assistants Restricted	P. 2
Disciplinary Action	P. 3
Tennessee Real Estate Commissioners	P. 4
Staff Members, Duties and Phone Numbers	P. 4

6. The rule that prohibited a licensee from advertising with letters larger than the firm name was repealed. A licensee who has permission from the principal broker may advertise using larger letters for

Continued on Page 2, Column 1



## TREC Holds Education Forum

The Tennessee Real Estate Commission held a forum on education in Nashville on March 9, 1999 which was attended by almost fifty real estate educators. Bobbi Gillis, Chairman, opened the discussion indicating the Commissioners wanted to know what Tennessee real estate educators felt about the required

Course for New Affiliates and Distance Learning.

Discussion concerning the Course for New Affiliates revealed that many new licensees were not taking the course within the one year period after being licensed. The educators who were present agreed this course

Continued on Page 2, Column 2

**Rule Changes Effective Now -**

continued from page 1

their own name than the letters for the firm name on everything but signs posted on any property. T.C.A. Section 62-13-310(b) states "Licensees may not post signs on any property advertising themselves as real estate agents unless the firm's name appears thereon in letters the same size or larger than those spelling out the name of the licensee." Additionally, all advertising must contain the firm name and the firm phone number.

7. A new rule passed to give the Tennessee Real Estate Commission civil penalty authority over unlicensed persons.

8. The rule on gifts and prizes was amended to make clear that cash gifts, cash prizes or cash rebates to unlicensed individuals are strictly prohibited.

9. The rules in the current (gold) manual on agency were deleted. The statute was amended in 1995 to set forth the current agency law (T.C.A. Section 62-13-405.) These statutes are on pages 27-30 of the gold manual.

10. The rules were amended to exempt any person holding a degree in real estate from the pre-licensure education requirement.

11. The rule that prohibited the repetition of a continuing education course was amended. The new rule allows repetition unless the course is repeated in the same renewal period.

The changes described above were designed to make the rules more user friendly. The Commission will be generating a new manual in the near future which will set forth the new rules along with current statutes and regulations.

**TREC Holds Education Forum -**

continued from page 1

is designed to assist new licensees in "learning the real estate business" and their not taking the course soon after being licensed is resulting in multiple mistakes during transactions and in many licensees leaving the profession due to not knowing how to obtain and proceed with listings. It was the consensus of these educators the mandated time frame for successfully completing this course should be narrowed to a maximum of six months after licensure rather than the one year time frame now in effect. It was further stated by educators that the \$25.00 a month penalty for not completing the course timely should be increased to \$100.00 per month to reinforce the need for timely completion of the Course for New Affiliates.

The topic of Distance Learning generated a great deal of discussion. Historically, distance learning consisted of paper and pencil correspondence courses. Currently, there are also courses on computer disks and courses that can be accessed via the internet. When the topic of security of computer linked courses was brought up it was the consensus of the real estate educators that security of these courses was at least as tight as any paper and pencil correspondence courses. It was further noted that classroom education will not be deleted due to distance learning since many students prefer interaction with teachers and other students that can best occur in the classroom setting.

**Compensation of Licensed Assistants Restricted**

Bruce E. Lynn, TREC Executive Director

The Tennessee Real Estate Commission has received inquiries concerning the legality of licensees paying their licensed assistants directly for activities requiring a license. The Commission has learned some principal brokers are allowing affiliates or affiliated brokers to compensate licensed assistants directly. Licensees and brokers are **CAUTIONED** to insure that compensation for activities requiring a license is only received from the broker (firm) with whom they are affiliated. See: T.C.A. Section 62-13-312(b)(11). Licensed assistants must be compensated through the firm if they are engaged in activities including, but not limited to, solicitations of owners to list, showing of real property, or negotiation/preparation of offers or contracts. The assistant's license must be active and affiliated with the same firm as the employing licensee.

The Commission will inquire, as needed, during inspections and complaint investigations to insure compliance with this provision of the law. Auditors or investigators will expect to see a procedure, policy, or formula recognizing the requirement for compensation to be paid by the firm.

Principal brokers are reminded that licensed assistants are no different than any other licensees. The principal broker is responsible for supervision and training for all affiliated licensees.

All assistants can be compensated by the employing licensee for any clerical or secretarial activities that do not require a license.



# DISCIPLINARY ACTION

## JANUARY 1999

### Ann Butts

License No. PB57002  
Goodlettsville, Tennessee

**Consent Order:** Respondent assisted an individual in selling a house and placed her phone number on the sign which specified "for sale by owner." Respondent further failed to complete any of the applicable disclosures.

**Penalty:** Three months suspension of license beginning January 1, 1999.

### Terry Deselms

License No. AF241060  
Nashville, Tennessee

**Consent Order:** Respondent on three separate occasions since 1993 has violated the rules and regulations of the Commission and further has violated advertising rules.

**Penalty:** Respondent paid a civil penalty of \$2500.00.

### Marilyn B. Good

License No. AF253038  
Johnson City, Tennessee

**Consent Order:** Respondent ran an advertisement which listed her home phone number and address and did not list either the firm phone number or firm address.

**Penalty:** Respondent paid a civil penalty of \$500.00.

### Larry Swindle

License No. AF14484  
Brentwood, Tennessee

**Consent Order:** Respondent ran a blind ad offering to rent a house for an associate. The ad did not mention the firm and the rental operation was not run through the property management department of the firm.

**Penalty:** Respondent is to cease and desist all activities in violation of the Broker's Act and pay a civil penalty of \$1000.00.

## FEBRUARY 1999

### Lisa Lohoff

License No. AF236057  
Gray, Tennessee

**Consent Order:** Respondent erroneously indicated property was on city sewer on property condition report when it was not.

**Penalty:** A Civil Penalty of \$1000.00 was assessed.

### Opal Walker

License No. PB19252  
Lafayette, Tennessee

**Consent Order:** Respondent allegedly altered a property condition form completed by the seller.

**Penalty:** A Civil Penalty of \$1000.00 was assessed.

## MARCH 1999

### Gregory W. Greene

Licenses No. AF242502  
Mountain City, Tennessee

**Final Order:** Respondent's license was revoked after proof of multiple violations of the Broker's Act, failure to comply with

probationary terms of a previous order, operating a business without a full-time broker and a pattern of writing bad checks including a bad check to pay a previous \$1000.00 civil penalty.

**Penalty:** Revocation of respondent's real estate license and assessment of a \$2500.00 civil penalty.

### Frankie C. Holloway

License No. 202351  
Mountain City, Tennessee

**Final Order:** Respondent did not fulfill the requirements of a principal broker of either supervision of an affiliate broker or management of accounts.

**Penalty:** Respondent's real estate license was downgraded from broker to affiliate broker.

### The Land Man

Firm Lic. No. 255807  
Mountain City, Tennessee

**Penalty:** Due to the actions of Mr. Greene and Ms. Holloway, the license for the firm (The Land Man) was revoked.

All Licensees (Active, Inactive, and Retired) MUST Pay the Renewal Fee

The 30 hour Course for New Affiliates MUST be completed within the First Year of Licensure by ALL Affiliate Brokers

**Department of Commerce and Insurance  
Tennessee Real Estate  
News-Journal  
is published quarterly by the  
Tennessee Real Estate Commission**

**Members of the Commission:**

**BOBBI S. GILLIS, Chairman**  
Memphis

**FRANCES W. ALMANY, Vice Chairman**  
Hendersonville

**ROBERT L. GAMBLE, Public Member**  
Chattanooga

**ADREN GREENE, Member**  
Morristown

**GRACE KROEGER, Member**  
Nashville

**JOHN G. LOVE, SR., Member**  
Johnson City

**BETTY L. SMITH, Member**  
Memphis

**L. A. WESTLEY, Member**  
Memphis

**PERCY WILKINS, Public Member**  
Nashville

**Editor-in-Chief: BRUCE E. LYNN,**  
Executive Director

**Editor: KATHY M. RIGGS, PH.D.,**  
Education Director

**The Tennessee Real  
Estate Commission  
Meets Monthly**

**Meetings are open to  
the public**

**Contact the  
Administrative Office  
for Time, Dates, and  
Locations**

"The Tennessee Department of Commerce and Insurance is committed to principles of equal opportunity, equal access, and affirmative action." Contact the EEO Coordinator or ADA Coordinator (615) 741-0480, for TDD 615-741-7190



TENNESSEE DEPARTMENT OF COMMERCE  
AND INSURANCE AUTHORIZATION NO.  
335101, Revised 05/99. This public document was  
promulgated for 38,000 copies per issue, at a cost  
of 12 cents per copy, paid by the Real Estate  
Education and Recovery Fund.

**TREC Phone Numbers:**

**(615) 741-2273 or 1-800-342-4031**

Personnel and Area of Responsibility with  
direct phone numbers.

**Conell House - (615) 741-7548** Affiliate  
broker applications and licenses

**Mary Bauman - (615) 741-3664** Broker  
applications and license issuance, Rental  
Location Licenses

**Paula Glover - (615) 741-7549** Continuing  
Education Processing

**Chip Medlen - (615) 741-0627** Firm  
applications, Name changes, Firm &  
Residential Address changes, Transfers, and  
Broker Releases

**Karen Jarrett - (615) 741-7550** License  
Certifications

**Sue Kerley - (615) 741-7553** Complaint  
Processing

**Judy Elmore - (615) 741-6455** E&O  
Insurance

**Gil Dyer - (615) 741-3615** Time Share  
Salesperson and Vacation Lodging Services

**Danny Webb - (615) 253-1232** Retirement  
& Inactive Changes, Reactivation of Licenses

**Donna Wright - (615) 741-4043**  
Reinstatements, Timeshare Project  
Registration & Renewal

**Semika Nelson - (615) 253-1190** Non-  
Resident applications and licenses

**Errors & Omissions Insurance**

**Contractor: Frontier Insurance Co.**  
1-888-248-2444 OR (615) 248-2444